

**MICV2005-01016**

FILED  
CLERKS OFFICE

May 16 P 3:05

U.S. DISTRICT COURT  
DISTRICT OF MASS

**NICHOLAS KALLIOPE**

CA  
05-10814  
RGS

v.

**HOME DEPOT USA, INC**

\*\*\*\*\*REMOVED TO US DISTRICT COURT\*\*\*\*\*

FILED  
CLERK'S OFFICE  
MAY 16 2005 P 3:05

**Commonwealth of Massachusetts**  
**SUPERIOR COURT DEPARTMENT**  
**THE TRIAL COURT**  
**CAMBRIDGE**

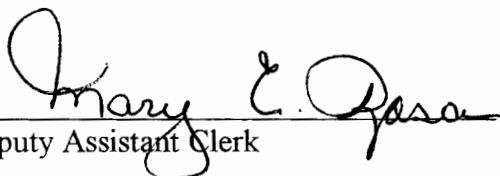
U.S. DISTRICT COURT  
DISTRICT OF MASS

MICV2005-01016

I, Mary E. Rosa, Deputy Assistant Clerk of the Superior Court, within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings entered in the Superior Court on the 25<sup>th</sup> of March, in the year of our Lord, Two Thousand Five



In testimony whereof, I hereunto set my hand and affix the seal of said Superior Court, at Cambridge, in said County, this 2<sup>nd</sup> of May, in the year of our Lord, Two Thousand Five

  
\_\_\_\_\_  
Deputy Assistant Clerk

*J*FILED  
CLERK'S OFFICE

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT

MIDDLESEX, ss.

2005 MAY 15 P 3:05

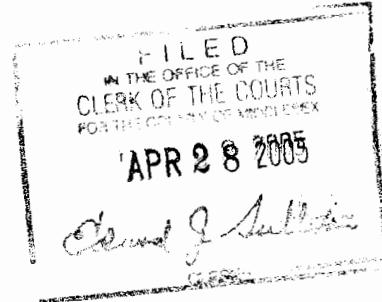
KALLIOPE NICHOLAS,	)
Plaintiff,	)
	)
v.	)
	)
THE HOME DEPOT, INC.	)
Defendant.	)
	)

CIVIL ACTION NO.  
MICV2005-01016-H

NOTICE OF REMOVAL

TO: J. Michael Conley  
 Kenney & Conley, P.C.  
 100 Grandview Road, Suite 218  
 Post Office Box 9139  
 Braintree, MA 02185

Office of the Civil Clerk  
 Middlesex Superior Court  
 40 Thorndike Street  
 Cambridge, MA 02141



Please take notice that the defendant, Home Depot USA, Inc. (incorrectly sued as "The Home Depot, Inc.", a non-Massachusetts corporation with its principal place of business in Georgia, has on the 22nd day of April, 2005, filed a Notice of Removal pursuant to 28 U.S.C. sec. 1441 et seq., containing a statement of facts which entitle it to remove the case to the United States District Court, District of Massachusetts.

The case is currently pending in the United States District Court, District of

Massachusetts at Boston with a Docket Number 05-10814 RGS (a certified copy of which is attached hereto as Exhibit 1).

HOME DEPOT USA, INC.

By Its Attorneys,

CAMPBELL CAMPBELL EDWARDS & CONROY  
PROFESSIONAL CORPORATION



---

James M. Campbell, BBO # 541882  
Brian P. Voke, BBO# 544327  
Christopher A. Callanan, BBO # 630649  
One Constitution Plaza  
Boston, MA 02129  
617-241-3000

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on April 27, 2005.

J. Michael Conley  
Kenney & Conley, P.C.  
100 Grandview Road, Suite 218  
Post Office Box 9139  
Braintree, MA 02185



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Christopher A. Callanan

FILED  
IN THE OFFICE OF THE  
CLERK OF THE COURTS  
FOR THE COUNTY OF NACOGDOCHES

APR 28 2005

*Edward J. Sullivan*

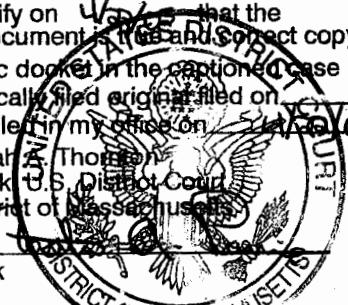
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTSFILED  
IN CLERKS OFFICE

NICHOLAS KALLIOPE )  
Plaintiff,  
v.  
HOME DEPOT USA, INC. )  
Defendant.

05 10814 RGS  
CIVIL ACTION NUMBER

I hereby certify on 4/16/05 that the foregoing document is true and correct copy of the  
 electronic docket in the captioned case  
 electronically filed originally on \_\_\_\_\_  
 original filed in my office on 4/16/05

Sarah A. Thompson  
Clerk, U.S. District Court  
District of Massachusetts

NOTICE OF REMOVALBy: \_\_\_\_\_  
Deputy Clerk

TO: THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

NOW COMES Home Depot USA, Inc., ("Home Depot") and files this Notice of Removal of the above-captioned action from Middlesex Superior Court, Middlesex County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. In support of its Notice of Removal, Home Depot states as follows:

1. This is a negligence action brought by Nicholas Kalliope, who alleges personal injury resulting from a trip and fall on rope on the floor of the Watertown, Massachusetts Home Depot store. As a result of Home Depot's alleged negligence, the plaintiff claims that he sustained severe and permanent injuries, has incurred and expects to continue to incur medical expenses and lost wages, and has suffered and expects to continue to suffer great pain of body and mind. (See Exhibit "A," attached, Plaintiff's Complaint and Civil Action Cover Sheet.)
3. The plaintiff is a resident of Belmont, Massachusetts.
4. Home Depot USA, Inc. is a Delaware Corporation with a principal place of business in Georgia.
5. Jurisdiction is founded on diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332.

6. The plaintiff alleges that he sustained a comminuted patella fracture and has incurred medical expenses to date of \$47,853.74 and expects that amount to increase with future treatment. Therefore, Home Depot believes that the amount in controversy, given the plaintiff's alleged damages, reasonably can be expected to \$75,000.

7. This Notice of Removal is being filed within the time period required by 28 U.S.C. § 1446(b).

8. This Notice of Removal was served on counsel of record via regular mail on April 22, 2005  
**Wherefore**, Home Depot prays for removal of the above-captioned matter from Middlesex Superior Court, Middlesex County, to the United States District Court for the District of Massachusetts.

Dated: April 22, 2005

HOME DEPOT USA, INC.  
By Its Attorneys,  
CAMPBELL CAMPBELL EDWARDS & CONROY  
PROFESSIONAL CORPORATION



---

James M. Campbell, BBO # 541882  
Christopher A. Callanan, BBO # 630649  
Julie B. Goldman, BBO# BBO# 648489  
One Constitution Plaza  
Boston, MA 02129  
617-241-3000

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on April 22, 2005.

J. Michael Conley  
Kenney & Conley  
100 Grandview Road  
Braintree, MA 02184

  
Christopher A. Callanan

## COMMONWEALTH OF MASSACHUSETTS

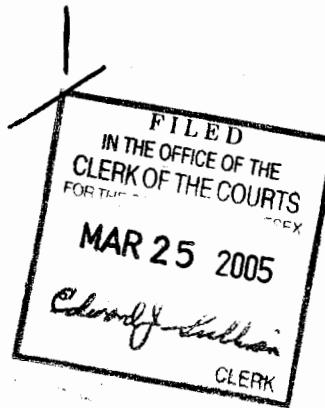
MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO.**05-1016**


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KALLIOPE NICHOLAS,	)
	)
Plaintiff,	)
	)
V.	)
	)
THE HOME DEPOT, INC.,	)
	)
Defendant.	)
	)

---



<u>COMPLAINT AND DEMAND FOR JURY TRIAL</u>	5695E000003/25/05CIVIL	240.00
	5695E000003/25/05SUR CHARGE	15.00
	5695E000003/25/05SEC	20.00

1. The Plaintiff, Kalliope Nicholas, resides at 64 Channing Road, Belmont, Middlesex County, Commonwealth of Massachusetts.

2. The Defendant, The Home Depot, Inc., is a duly constituted corporation with places of business throughout Eastern Massachusetts, including at a store in Watertown, Massachusetts.

3. On June 13, 2004, the Plaintiff, a customer of the Defendant, tripped and fell over rope on the Defendant's store floor. The Plaintiff's fall was caused by the Defendant's negligence in:

- (a) unsafe placement of rope on its store floor;
- (b) failure to remedy dangerous conditions created by the rope left on its store floor;
- (c) failure to guard or block the hazardous condition represented by the rope left on its store floor;

- (d) failure to warn customers of the hazard presented by the rope left on its store floor; and
- (e) failure to properly train its employees.

4. As a result, the Plaintiff, Kalliope Nicholas, was seriously injured, was prevented from transacting her business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization.

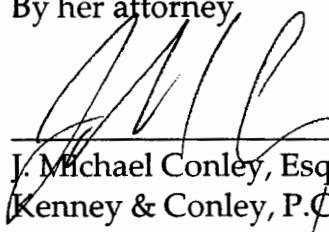
5. This is an action by Kalliope Nicholas against The Home Depot, Inc. for negligence and/or recklessness resulting in personal injury.

**WHEREFORE**, the Plaintiff, Kalliope Nicholas, demands judgment against the Defendant, The Home Depot, Inc., in an amount that is fair, together with interest and costs.

**PLAINTIFF DEMANDS A TRIAL BY JURY.**

Respectfully submitted,

**KALLIOPE NICHOLAS,**  
By her attorney



J. Michael Conley, Esq. (BBO# 094090)  
Kenney & Conley, P.C.  
100 Grandview Road, Suite 218  
Post Office Box 9139  
Braintree, Massachusetts 02185  
Telephone: 781-848-9891

Dated: March 22, 2005

CIVIL ACTION  
COVER SHEET

05-1016

Trial Court of Massachusetts  
Superior Court Department  
County: MIDDLESEX

## PLAINTIFF(S)

KALLIOPE NICHOLAS

## DEFENDANT(S)

THE HOME DEPOT, INC.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE  
**J. Michael Conley, Esq. (BBO# 094090)**  
 Kenney & Conley, P.C.  
 100 Grandview Road, Braintree, MA 02184  
 Board of Bar Overseers number: Tel: 781-848-9891

## ATTORNEY (if known)

## Origin code and track designation

Place an x in one box only:

- 1. F01 Original Complaint
- 2. F02 Removal to Sup.Ct. C.231,s.104  
(Before trial) (F)
- 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)
- 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
- 6. E10 Summary Process Appeal (X)

## TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
	Other negligence--		
B04	personal injury	(F )	(X ) Yes ( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

## TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses .....	\$ . 3,876.62 . . .
2. Total Doctor expenses .....	\$ . 2,034.00 . . .
3. Total chiropractic expenses .....	\$ . . . . .
4. Total physical therapy expenses .....	\$ . 34,057.00 . . .
5. Total other expenses (describe) .....	\$ . 7,886.12 . . .

B. Documented lost wages and compensation to date .....

C. Documented property damages to date .....

D. Reasonably anticipated future medical and hospital expenses .....

E. Reasonably anticipated lost wages .....

F. Other documented items of damages (describe) .....

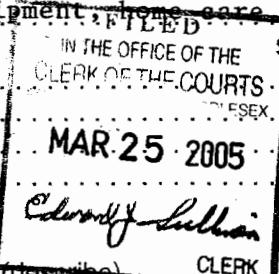
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Comminuted patella fracture

TO EXCEED

\$ . . . . .

TOTAL \$ 47,853.74 . . .



## CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$ . . . . .

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 3/22/2005

MAS-20041213  
gilmanr

**Commonwealth of Massachusetts**  
**MIDDLESEX SUPERIOR COURT**  
**Case Summary**  
**Civil Docket**

05/02/2005  
02:01 PM

**MICV2005-01016**  
**Nicholas v Home Depot U.S.A., Inc.**

<b>File Date</b>	03/25/2005	<b>Status</b>	Disposed: transferred to other court (dtrans)		
<b>Status Date</b>	04/28/2005	<b>Session</b>	H - Cv H (8A Cambridge)		
<b>Origin</b>	1	<b>Case Type</b>	B04 - Other negligence/pers injury/pro		
<b>Lead Case</b>		<b>Track</b>	F		
<b>Service</b>	06/23/2005	<b>Answer</b>	08/22/2005	<b>Rule12/19/20</b>	08/22/2005
<b>Rule 15</b>	08/22/2005	<b>Discovery</b>	01/19/2006	<b>Rule 56</b>	02/18/2006
<b>Final PTC</b>	03/20/2006	<b>Disposition</b>	05/19/2006	<b>Jury Trial</b>	Yes

**PARTIES**

<b>Plaintiff</b> Kalliope Nicholas 64 Channing Road Active 03/25/2005	<b>Private Counsel 094090</b> J Michael Conley Kenney & Conley 100 Grandview Road Suite 218 PO Box 9139 Braintree, MA 02185 Phone: 781-848-9891 Fax: 781-843-4216 Active 03/25/2005 Notify
<b>Defendant</b> Home Depot U.S.A., Inc. Service pending 03/25/2005	<b>Private Counsel 544327</b> Brian P Voke Campbell Campbell Edwards & Conroy 1 Constitution Plaza 3rd floor Boston, MA 02129 Phone: 617-241-3000 Fax: 617-241-5115 Active 04/28/2005 Notify
	<b>Private Counsel 541882</b> James M Campbell Campbell Campbell Edwards & Conroy 1 Constitution Plaza 3rd Floor Boston, MA 02129 Phone: 617-241-3000 Fax: 617-241-5115 Active 04/28/2005 Notify
	<b>Private Counsel 630649</b> Christopher A Callanan Campbell Campbell Edwards & Conroy 1 Constitution Plaza Boston, MA 02129 Phone: 617-241-3057 Fax: 617-241-5115 Active 04/28/2005 Notify

**ENTRIES**

Date	Paper	Text
03/25/2005	1.0	Complaint & civil action cover sheet filed

MAS-20041213

gilmanr

**Commonwealth of Massachusetts**  
**MIDDLESEX SUPERIOR COURT**  
**Case Summary**  
**Civil Docket**

05/02/2005

02:01 PM

**MICV2005-01016**  
**Nicholas v Home Depot U.S.A., Inc.**

Date	Paper	Text
03/25/2005		Origin 1, Type B04, Track F.
04/28/2005	2.0	Case REMOVED this date to US District Court of Massachusetts by deft Home Depot USA, Inc
04/28/2005		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT

